



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Legal Secretary 1
(C0320W), Bergen County

CSC Docket No. 2019-2058

Appointment Waiver

ISSUED: JUNE 14, 2019 (JET)

Bergen County requests permission not to make an appointment from the certification for Legal Secretary 1 (C0320W), Bergen County.

By way of background, Arvelise Gonzalez-Murrel was provisionally appointed to the subject title on January 1, 2018. The resulting examination was announced with a closing date of March 22, 2018 and subsequently a list was promulgated containing 14 eligibles on May 17, 2018 and will expire on May 16, 2021. A certification was issued on May 21, 2018 (OL180500) which contained the names of the 14 eligibles. Gonzalez-Murrel's name appeared on the certification, however, her provisional appointment was discontinued effective October 30, 2018 as she was appointed as a Confidential Secretary. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement prior to its administration.

By letter dated March 12, 2019, the appointing authority requested an appointment waiver. It explained that the provisional was removed as she was incorrectly appointed to the subject title. However, it requested that no costs be assessed as it indicated that it still planned to use the list.

A review of agency records reveals that there are currently no employees serving provisionally in the subject title with Bergen County.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated due to the appointing authority's appointment of a provisional employee to the subject title. However, after the OL180500 certification was issued, the appointing authority moved the provisional appointee to another title. As there is no longer a provisional appointee serving in the subject title, there is sufficient justification for an appointment waiver.

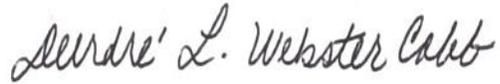
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. However, the appointing authority indicates that it may utilize the list prior to its expiration date of May 16, 2021. Accordingly, under these particular circumstances, it would not be appropriate to assess the appointing authority the costs of the selection process at this time. Nevertheless, in the event that the appointing authority fails to utilize the list by its expiration date of May 16, 2021, this matter can be reviewed to ascertain whether an assessment of costs of the selection process should be made.

ORDER

Therefore, it is ordered that the request for a waiver of the appointment requirement be granted and no selection costs presently be assessed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 12th DAY OF JUNE, 2019



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